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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,319	08/02/2001	Craig Hansen	43876-128-Cont	8144

7590 09/23/2002

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EXAMINER
MONESTIME, MACKLY

ART UNIT	PAPER NUMBER
2671	

DATE MAILED: 09/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/922,319	Hansen et al
Examiner	**Group Art Unit**
Mackly Monestime	2671

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☑ Responsive to communication(s) filed on 8/2/01.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☑ Claim(s) 1-17 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☑ Claim(s) 1-17 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 11 9(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☑ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

DETAILED ACTION

1. Claims 1-17 are presented for examination.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of the US Patent No. 6,295,599. Although the

conflicting claims are not identical, they are not in fact patentably distinct from each other because the subject matter claimed in the instant application is substantially disclosed in the referenced Patent No. 6,295, 599. The only difference between the independent claims 1, 7, 13, and 15 of the present application (09/922,319) and claims 1, 6 and 11 of the Patent No. 6,295,599 is that the steps of: " reading at least a portion of the catenated data which is greater in width than the first data path width" are omitted in the present application (09/922,319). However, both claims recite the same combination of elements/steps having the same function. In the present instance, applicant is clearly attempting to obtain broader coverage in the present application (09/922,319). Moreover, it is well settled that the omission of an element (or elements) and its/(their) function(s) is an obvious expedient if the remaining elements perform the same function as before. In re Karlson, 136 USPQ184 (CCPA 1963). Therefore, the omission of the elements cited above and their functions is an obvious expedient since the remaining elements, i.e., the elements in the present application (09/922,319) perform the same function as the claims disclosed in the Patent No.6,295,599.

Claim Rejections - 35 U.S.C. § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 7, 13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gahan et al (US Patent No. 5,600,814) in view of Kwon (US Patent No. 5,768,546).

6. As per claims 1, 7, 13 and 15-16, Gahan et al. disclosed substantially the invention as claimed, including a system having a functional unit data path width, a first memory system having a first data path width (Fig. 1, Item No. 11, col. 3, line 5), a second memory system having a first data path width which is greater than the functional unit data path width, and greater than the first data path width (Fig. 1, Item No. 12, col. 3, lines 6-9).

Gahan et al. did not disclose the steps of: copying a first memory operand portion from the first memory system data; copying a second memory operand portion from the first memory system to the second memory system, the second memory operand portion having the first data path width and being catenated with the first memory operand portion; and reading at least a portion of the catenated data which is greater than the first data path width. However, Kwon disclosed copying a first memory operand portion from the first memory system data (col. 2, lines 52-55; col. 3, lines 19-22); copying a second memory operand portion from the first memory system to the second memory system, the second memory operand portion having the first data path width and being catenated with the first memory operand portion (col. 2, lines 59-63; col. 3, lines 22-25). It would have been obvious to one ordinary skill in the art at the time the invention was made to combine the teachings of Kwon with the teachings of Gahan et al. because Kwon's teachings would provide an improved memory system having different data path widths.

Conclusion

Applicant is required to give full consideration to these prior art references when responding to this office action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Girardeau, Jr (US Patent No. 5,487,024) taught a data processing system for hardware implementation of square operations and method.

Osaki et al (US Patent No. 5,280,598) taught a cache memory and bus width control circuit for selectively coupling peripheral devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mackly Monestime whose telephone number is (703) 305-3855. The examiner can normally be reached on Monday to Thursday from 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Zimmerman, can be reached on (703) 305-9798.

Any response to this action should be mailed to:

Commissioner of Patent and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, Va, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Mackly Monestime

Patent Examiner

September 17, 2002

MARK ZIMMERMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600